

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ARCON SOLUTIONS, LLC,

Plaintiff, Counter-Defendant

-against-

EAST 29<sup>th</sup> STREET, LLC, and  
ESPAIS PROMOCIONS IMMOBILARIES EPI,  
S.A.,

Defendants, Counter-claimants,

-against-

MICHAEL FALKE and MARK GEMIGNANI,

Additional Counter-Defendants.

**AFFIDAVIT OF MARK GEMIGNANI**  
**IN SUPPORT OF COUNTER-**  
**DEFENDANTS FALKE AND**  
**GEMIGNANI'S MOTION TO**  
**DISMISS COUNTERCLAIMS**

08 CV 02050 (RMB)

**DECLARATION OF MARK GEMIGNANI**

BEFORE ME, the undersigned authority, personally appeared MARK GEMIGNANI, who after being duly sworn, upon his oath, deposes and says the following:

1. Pursuant to 28 U.S.C. § 1746, I, MARK GEMIGNANI, hereby declare under penalty of perjury that the following Declaration is true and correct.
2. This Declaration is based upon my direct and personal knowledge and is being made in support of the Motion to Dismiss Defendants/Counter-claimants' Counterclaims against myself and Mr. Michael Falke for lack of personal jurisdiction and failure to state a proper cause of action.
3. I am a resident and domiciliary of Miami-Dade County, Florida, and a citizen of the State of Florida.

4. I am a Member of Arcon Solutions, LLC, the Plaintiff in the above-captioned matter. Arcon's office is located at 1395 Brickell Avenue, Suite 800, Miami, Florida 33131.

5. Arcon is a full-service construction and real estate consulting firm providing professional services for owner's representation, financial institutions, law firms and general contractors. Arcon is an active LLC with ongoing business dealings.

6. I personally do not sell, and have never sold any products or conducted regular business in the State of New York in my individual capacity.

7. I personally in my individual capacity have not done any advertising in the State of New York.

8. I personally do not own, use or possess any real property in the State of New York.

9. I personally do not, and have never owned, any bank accounts in the State of New York.

10. At all relevant times, I personally have never been liable for any State of New York income taxes.

11. At all relevant times, I personally never entered into any business contracts in the State of New York.

12. I personally am not registered to conduct business in the State of New York nor do I have a registered agent in the State of New York.

I declare under penalty of perjury under the law of the United States that the foregoing is true and correct.

Executed on June 23, 2008

  
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MARK GEMIGNANI